

**SUPREME COURT MINUTES
TUESDAY, OCTOBER 5, 2010
SAN FRANCISCO, CALIFORNIA**

S186992

**HERRERA (MATTHEW
JONATHAN) v. COURT OF
APPEAL, SECOND
APPELLATE DISTRICT,
DIVISION FIVE (PEOPLE)**

Order filed

To permit consideration of the petition filed herein, the Court of Appeal's September 30, 2010, order in *People v. Hernandez et al.*, B224527, ordering pages 6324 and 6325 of the reporter's transcript unsealed, is hereby stayed pending further order of this court.

S184797

SACK ON DISCIPLINE

Recommended discipline imposed

The court orders that ROBERT HOWARD SACK, State Bar Number 165033, is suspended from the practice of law in California for three years, execution of that period of suspension is stayed, and he is placed on probation for four years subject to the following conditions:

1. ROBERT HOWARD SACK is suspended from the practice of law for a minimum of the first two years and six months of probation, and he will remain suspended until the following requirements are satisfied:
 - i. He must provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)
2. ROBERT HOWARD SACK must also comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its filed on June 3, 2010.
3. At the expiration of the period of probation, if ROBERT HOWARD SACK has complied with all conditions of probation, the three-year period of stayed suspension will be satisfied and that suspension will be terminated.

ROBERT HOWARD SACK must also take and pass the Multistate Professional Responsibility Examination during the period of his suspension and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

ROBERT HOWARD SACK must also comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One-fourth of the costs must be paid with his membership fees for each of the years 2011, 2012, 2013, and 2014. If ROBERT HOWARD SACK fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately. ROBERT HOWARD SACK must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds and such payment obligation is enforceable as provided under Business and Professions Code section 6140.5.

S184799**SPEARS ON DISCIPLINE**

Recommended discipline imposed

The court orders that LARRY SCOTT SPEARS, State Bar Number 195993, is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, subject to the following conditions:

1. LARRY SCOTT SPEARS is suspended from the practice of law for a minimum of 90 days, and he will remain suspended until the following requirements are satisfied:
 - i. The State Bar Court grants a motion to terminate his suspension pursuant to rule 205 of the Rules of Procedure of the State Bar; and
 - ii. If he remains suspended for two years or more as a result of not satisfying the preceding condition, he must also provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)
2. LARRY SCOTT SPEARS must comply with the conditions of probation, if any, imposed by the State Bar Court as a condition for terminating his suspension.

LARRY SCOTT SPEARS must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order, or during the period of his suspension, whichever is longer and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

LARRY SCOTT SPEARS must also comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. LARRY SCOTT SPEARS must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds and such payment is enforceable as provided under Business and Professions Code section 6140.5.

S184801**PARK ON DISCIPLINE**

Recommended discipline imposed

The court orders that PAUL PARK, State Bar Number 144210, is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and he is placed on probation for three years subject to the following conditions:

1. PAUL PARK is suspended from the practice of law for the first nine months of probation;
2. PAUL PARK must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on May 27, 2010; and
3. At the expiration of the period of probation, if PAUL PARK has complied with all conditions of probation, the two-year period of stayed suspension will be satisfied and that suspension will be terminated.

PAUL PARK must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

PAUL PARK must also comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension. Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One-third of the costs must be paid with his membership fees for each of the years 2011, 2012, and 2013. If PAUL PARK fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately. PAUL PARK must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds and that such payment be enforceable as provided for under Business and Professions Code section 6140.5.

S184892**AGAJANIAN ON DISCIPLINE**

Recommended discipline imposed: disbarred

The court orders that ROGER JAMES AGAJANIAN, State Bar Number 55393, is disbarred from the practice of law in California and that his name is stricken from the roll of attorneys.

ROGER JAMES AGAJANIAN must make restitution as recommended by the Hearing Department of the State Bar Court in its Decision filed on May 25, 2010. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

ROGER JAMES AGAJANIAN must also comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S184895**LEECH ON DISCIPLINE**

Recommended discipline imposed

The court orders that RALPH JOSEPH LEECH, State Bar Number 77146, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and he is placed on probation for one year subject to the following conditions:

1. RALPH JOSEPH LEECH is suspended from the practice of law for the first 30 days of probation;
2. RALPH JOSEPH LEECH must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on June 2, 2010; and
3. At the expiration of the period of probation, if RALPH JOSEPH LEECH has complied with all conditions of probation, the one-year period of stayed suspension will be satisfied and that suspension will be terminated.

RALPH JOSEPH LEECH must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. RALPH JOSEPH LEECH must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds and such payment is enforceable as provided under Business and Professions Code section 6140.5.

S184900**HERRICK ON DISCIPLINE**

Recommended discipline imposed

The court orders that LYLE DAVID HERRICK, State Bar Number 36872, is suspended from the practice of law in California for five years, execution of that period of suspension is stayed, and he is placed on probation for five years subject to the following conditions:

1. LYLE DAVID HERRICK is suspended from the practice of law for a minimum of 18 months, and he will remain suspended until the following requirements are satisfied:
 - i. He makes restitution to Christopher Amaya in the amount of \$1,000 plus 10 percent interest per year from January 1, 2003 (or reimburses the Client Security Fund, to the extent of any payment from the fund to Christopher Amaya, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles;
 - ii. He makes restitution to Freddie Silvestre in the amount of \$1,200 plus 10 percent interest per year from July 1, 2003 (or reimburses the Client Security Fund, to the extent of any payment from the fund to Freddie Silvestre, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles;
 - iii. He makes restitution to Alexander Rinderle in the amount of \$1,000 plus 10 percent interest per year from January 1, 2003 (or reimburses the Client Security Fund, to the

extent of any payment from the fund to Alexander Rinderle, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles;

- iv. He makes restitution to Laura Garcia in the amount of \$1,600 plus 10 percent interest per year from January 1, 2004 (or reimburses the Client Security Fund, to the extent of any payment from the fund to Laura Garcia, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles; and
 - v. LYLE DAVID HERRICK must also provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)
2. LYLE DAVID HERRICK must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Decision filed on June 3, 2010.
3. At the expiration of the period of probation, if LYLE DAVID HERRICK has complied with all conditions of probation, the five-year period of stayed suspension will be satisfied and that suspension will be terminated.

LYLE DAVID HERRICK must also take and pass the Multistate Professional Responsibility Examination during the period of his suspension and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

LYLE DAVID HERRICK must also comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S184904

FISHER ON DISCIPLINE

Recommended discipline imposed: disbarred

The court orders that PAUL ETAN FISHER, State Bar Number 125309, is summarily disbarred from the practice of law and that his name is stricken from the roll of attorneys.

PAUL ETAN FISHER must also comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. PAUL ETAN FISHER must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds and such payment is enforceable as provided under Business and Professions Code section 6140.5.

S184915**LEONARD ON DISCIPLINE**

Recommended discipline imposed: disbarred

The court orders that CATHYE ELAINE LEONARD, State Bar Number 177791, is disbarred from the practice of law in California and that her name is stricken from the roll of attorneys.

CATHYE ELAINE LEONARD must make restitution as recommended by the Hearing Department of the State Bar Court in its Decision filed on May 17, 2010. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

CATHYE ELAINE LEONARD must also comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. CATHYE ELAINE LEONARD must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds and such payment is enforceable as provided under Business and Professions Code section 6140.5.

S184916**DEMMA ON DISCIPLINE**

Recommended discipline imposed

The court orders that NICHOLAS GEORGE DEMMA, State Bar Number 47318, is suspended from the practice of law in California for three years, execution of that period of suspension is stayed, subject to the following conditions:

1. NICHOLAS GEORGE DEMMA is suspended from the practice of law for a minimum of two years, and he will remain suspended until the following requirements are satisfied:
 - i. The State Bar Court grants a motion to terminate his suspension pursuant to rule 205 of the Rules of Procedure of the State Bar; and
 - ii. NICHOLAS GEORGE DEMMA must also provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)
2. NICHOLAS GEORGE DEMMA must comply with the conditions of probation, if any, imposed by the State Bar Court as a condition for terminating his suspension.

NICHOLAS GEORGE DEMMA must also take and pass the Multistate Professional Responsibility Examination during the period of his suspension and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

NICHOLAS GEORGE DEMMA must also comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7

and as a money judgment.

S185009**NELSON ON DISCIPLINE**

Recommended discipline imposed

The court orders that JEFFREY ALAN NELSON, State Bar Number 74834, is suspended from the practice of law in California for six months, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

1. JEFFREY ALAN NELSON is suspended from the practice of law for the first 60 days of probation (with credit given for the period of inactive enrollment which commenced on December 11, 2007 and ended on January 29, 2009);
2. JEFFREY ALAN NELSON must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Decision filed on June 9, 2010; and
3. At the expiration of the period of probation, if JEFFREY ALAN NELSON has complied with all conditions of probation, the six-month period of stayed suspension will be satisfied and that suspension will be terminated.

JEFFREY ALAN NELSON must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).) Or, in the alternative, Jeffrey Alan Nelson must provide satisfactory proof to the State Bar's Office of Probation in Los Angeles within 90 days after the effective date of the Supreme Court's disciplinary order in this matter, that he has taken and passed the Multistate Professional Responsibility Examination during the period of his participation in the Alternative Discipline Program.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. JEFFREY ALAN NELSON must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds and such payment is enforceable as provided under Business and Professions Code section 6140.5.

S185012**NIETO ON DISCIPLINE**

Recommended discipline imposed: disbarred

The court orders that MARIBEL NIETO, State Bar Number 219077, is disbarred from the practice of law in California and that her name is stricken from the roll of attorneys.

MARIBEL NIETO must make restitution as recommended by the Hearing Department of the State Bar Court in its Decision filed on May 27, 2010. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

MARIBEL NIETO must also comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days,

respectively, after the effective date of this order.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. MARIBEL NIETO must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds and such payment is enforceable as provided under Business and Professions Code section 6140.5.

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
NOVEMBER 2 and 3, 2010**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on November 2 and 3, 2010.

TUESDAY, NOVEMBER 2, 2010 — 9:00 A.M.

- (1) S178914 Cassell v. Superior Court of Los Angeles County (Wasserman, Comden,
Casselman & Pearson, L.L.P., et al., Real Parties in Interest)
- (2) S175356 People v. Martin (Louis Lambert)
- (3) S180365 In re Enforcement Against Dana Point Safe Harbor Collective of City of Dana
Point City Council Subpoena

1:30 P.M.

- (4) S081479 People v. Moore (Ronald Wayne) [Automatic Appeal]
- (5) S085193 People v. Nelson (Bernard Albert) [Automatic Appeal]

WEDNESDAY, NOVEMBER 3, 2010 — 9:00 A.M.

- (6) S171845 Kwikset Corp. et al. v. Superior Court of Orange County (James Benson et al.,
Real Parties in Interest)
- (7) S167531 People v. Soto (Jaime Vargas)
- (8) S172377 International Assn. of Fire Fighters Local 188 v. Public Employment Relations
Board (City of Richmond, Real Party in Interest)

1:30 P.M.

- (9) S083899 People v. Booker (Richard Lonnie) [Automatic Appeal]
- (10) S056364 People v. Jones (Albert) [Automatic Appeal]

Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)